

Members

Sen. Sue Landske, Chairperson
Sen. Becky Skillman
Sen. Billie Breaux
Sen. Allie Craycraft
Rep. Duane Cheney
Rep. Thomas Kromkowski
Rep. Robert Behning
Rep. Kathy Richardson



CENSUS DATA ADVISORY COMMITTEE

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MEETING MINUTES¹

Meeting Date: November 15, 2001
Meeting Time: 1:30 P.M.
Meeting Place: State House, 200 W. Washington St., 125
Meeting City: Indianapolis, Indiana
Meeting Number: 4

Members Present: Sen. Sue Landske, Chairperson; Sen. Becky Skillman; Sen. Billie Breaux; Rep. Duane Cheney; Rep. Thomas Kromkowski; Rep. Robert Behning; Rep. Kathy Richardson.

Members Absent: Sen. Allie Craycraft.

(1) Call to Order. The Chair, Senator Landske, called the meeting to order at approximately 1:36 p.m.

(2) Introduction of Members. Committee members present introduced themselves.

(3) Review of PD 3577 Concerning Redistricting Technical Corrections.² The Chair asked staff to review PD 3577. Staff told the Committee that this draft was the same as PD 3304 with the addition of the correction of a discontiguity in the City of Bicknell in Knox County.

1. Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

2. A copy of PD 3577 is Exhibit 1 to these Minutes.

The Chair recognized Mark Stratton from the Office of Census Data to explain the correction. Mr. Stratton distributed a map of the City of Bicknell illustrating the discontinuity.³ Mr. Stratton explained that the discontinuity affected Senate District 39 and Senate District 48 and occurred because of a discontinuous precinct that was created for Bicknell after an annexation. Mr. Stratton reported that the discontinuous territory had no population. He said that the default provisions of the redistricting statute would have placed the discontinuous part of the precinct in Senate District 39.

In response to a question from Representative Kromkowski, Mr. Stratton stated that the proposed amendment would describe the two affected districts as everyone anticipated they would be composed.

In response to a question from Senator Breaux, Mr. Stratton said that Representative Mahern is aware of the problem and agrees with the proposed amendment.

Representative Behning said there was an error in the way two precincts in Martinsville, Brown Precinct 3 and Brown Precinct 7, are depicted in the redistricting database which affect his district (House District 91) and Representative Foley's district (House District 47).

Staff told the Committee that the error may be due to incorrect information being given to the Legislative Services Agency by the Morgan County circuit court clerk. Ms. Bard and Mr. Stratton distributed copies of correspondence between the Legislative Services Agency and the Morgan County circuit court clerk regarding precincts in Morgan County.⁴ Ms. Bard and Mr. Stratton also distributed maps of certain precincts in Morgan County that illustrate the problem.⁵

Using the first map distributed, Ms. Bard explained that Representative Foley and the Morgan County circuit court clerk believe that part of House District 91 (shown in teal) should be part of House District 47 while part of House District 47 (shown in green) should be part of House District 91. Ms. Bard reviewed the correspondence and the maps, saying that the precincts were drawn in the redistricting database as the information given the Legislative Services Agency indicated the two precincts existed. The Legislative Services Agency never heard that the now disputed geography was mapped incorrectly.

There was discussion about the population of the green area; the circuit court clerk saying that there was no population in this area whereas the Census Bureau indicates two persons living in the area. Mr. Stratton suggested that the discrepancy might be explained if the two persons counted by the Census Bureau are not registered voters.

In response to a question from Representative Richardson Ms. Bard confirmed that creation of two new precincts for the disputed areas would solve the problem.

3. A copy of the map is Exhibit 1A to these Minutes.

4. Copies of this correspondence are Exhibit 2 to these Minutes. The correspondence consists of the following:

5. Copies of these maps are Exhibit 3 to these Minutes. The maps consist of the following: A color map captioned "Morgan County". A partial map of Mooresville showing Brown Precinct #1, Brown Precinct #2, Brown Precinct #3, and Brown Precinct #4 with some boundaries in pink as sent to the Legislative Services Agency by the Morgan County circuit court clerk's office during the Block Boundary Suggestion Program. A color map showing portions of the City of Mooresville sent by the Legislative Services Agency to the Morgan County circuit court clerk with LSA notation "What precinct?" and notation of Brown circuit court clerk's office with notation "Brown 3" and "Brown 7". A map showing how Brown Precinct #1, Brown Precinct #2, Brown Precinct #3 and Brown Precinct #7 were mapped into the redistricting database by the Legislative Services Agency.

Staff explained that the Office of Census Data does not have the legal authority to redraw the district boundaries to correct an error that might have occurred in representing the precincts, regardless of the source of the error. Redrawing the boundaries is solely the General Assembly's prerogative. In response to a question, staff and Ms. Bard indicated that there other precincts in the state that have the problem illustrated by this example.

Representative Behning said he would discuss this information with Representative Foley and the Morgan County circuit court clerk to determine what recommendation, if any, to make.

Representative Kromkowski reported that after the 1981 redistricting, any problems such as the one raised by Representative Behning were corrected during the following session if all legislators whose districts were involved agreed to the correction. He said that he thought the same attitude would prevail during the 2002 Session.

Representative Kromkowski moved that the Committee recommends to the General Assembly enactment of a bill based on PD 3577. Senator Breaux seconded the motion. All members present gave their consent to the motion.

Those voting in favor of the motion were: Senator Landske, Senator Breaux, Senator Skillman, Representative Kromkowski, Representative Behning, Representative Cheney, and Representative Richardson.

Those voting against the motion were: none.

(4) Review of PD 3589 Concerning Various Election Law Changes.⁶ The Chair stated that PD 3589 was the same as PD 3162 discussed at the September 17 meeting with the substitution of the language proposed by Senator Skillman at the October 15 meeting for the language relating to the voting systems funds suggested by the Election Division.⁷

Senator Skillman said that the language she proposed would be required to be introduced in a House Bill because language similar to what she proposed in a bill relating to waste water districts was ruled in the Senate during the 2001 Session to be a revenue raising measure. So either her proposal would be required to stand alone or a bill based on PD 3589 must start in the House.

Representative Kromkowski said he would be willing to author a bill based on all of PD 3589.

Representative Cheney asked whether Senator Skillman's proposal would apply to all purchases of voting systems or just for the local share of purchases under the voting system improvement fund. Senator Skillman responded that the provision was not written specifically to fund a county's 50% match. Senator Skillman said the proposal also would not have an effect on the money appropriated by the General Assembly during the 2001 Session for replacement of voting systems. The Budget Agency would still be required to approve applications for funding from the voting system improvement fund.

6. A copy of PD 3589 is Exhibit 4 to these Minutes.

7. The language proposed by Senator Skillman is found in SECTION 13 of PD 3589.

Senator Landske observed that Senator Skillman's proposal did not mandate any county to take any specific action.

The Chair recognized Travis Worl, representing the Association of Indiana Counties. Mr. Worl distributed a table to illustrate his discussion about the impact of the requirement for counties to replace punch card voting systems.⁸ Mr. Worl stated that 21 counties could not currently raise the money to fund this mandate. He reported that currently the discussion in Congress is to provide \$400 million to state and local governments for the replacement of punchcard systems nationwide. There was discussion of some of the other measures being proposed in the Congress.

Representative Kromkowski moved that the Committee recommends to the General Assembly enactment of a bill based on PD 3589. Representative Cheney seconded the motion. All members present gave their consent to the motion.

Those voting in favor of the motion were: Senator Landske, Senator Breaux, Senator Skillman, Representative Kromkowski, Representative Behning, Representative Cheney, and Representative Richardson.

Those voting against the motion were: none.

(5) Review of PD 3657 Concerning Adjusting Census Numbers in Statutes - References to "Congressional Districts".⁹ The Chair asked staff to review PD 3657. Staff told the Committee that the draft was the same as PD 3305 discussed at the October 15 meeting with the addition of a Noncode provision that would permit several members of a board who reside in the same congressional district after the 2000 redistricting to remain board members notwithstanding that some congressional districts would not be represented by a board member. The Noncode provision would direct the Governor to appoint board members who were residents of unrepresented congressional districts as terms expired. The Noncode provision would itself expire after four years.

The Chair reviewed for the Committee the identities of the boards and commissions to which each of the SECTIONS of PD 3657 applied. The Chair also stated the Committee would not take action on this draft at this meeting. This draft would be combined with the other population drafts and considered at the Committee's last meeting of the year.

(6) Review of PD 3687 Concerning Adjusting Census Numbers in Statutes - Changes in Population Parameters.¹⁰ The Chair announced that the Committee also would not take final action on this draft at this meeting. The Chair asked staff to review this draft for the Committee.

Staff reviewed the following SECTIONS 1 through 9 for the Committee, reviewing the information on the analysis sheets. In response to a question, staff briefly discussed the reasons for structuring legislation using population parameters, stating that the use of the parameters was a means to draft legislation so that Article 4, Sections 22 and 23 of the Indiana Constitution concerning special legislation would not be violated. Staff also briefly

8. A copy of the table, consisting of 4 pages and entitled "County Levy Percentage of Max Levy / Cost of New Voting Systems for Punchcard Counties", is Exhibit 5 to these Minutes.

9. A copy of PD 3657 is Exhibit 6 to these Minutes.

10. A copy of PD 3687 is Exhibit 7 to these Minutes.

discussed Indiana court decisions that had held that the use of parameters would not violate the special legislation provisions of the Indiana Constitution.

In response to another question, staff reviewed the process by which a political subdivision can update its population after a decennial census has taken place. Under Indiana law,¹¹ if a political subdivision obtains a special census or another adjustment is made to the political subdivision's population, the new population data becomes effective on April 1 of the year following the date the Governor is notified of the change.¹²

Staff also discussed with the Committee the problems that the current statutory scheme creates. As an example, in SECTION 9 of PD 3687, IC 7.1-3-1-25(f) was originally designed for the City of East Chicago. After the 1990 Census, the City of Columbus obtained a special census and it moved into the statute designed for East Chicago. As a practical matter, the statute probably would not apply to Columbus because, the statute refers to alcoholic beverage permits for a marina.

A similar problem occurred to the City of Jeffersonville, except in this case, the City's population numbers were adjusted and the City moved out of the parameters of a statute designed for it.

Staff stated that one of the problems with the current statutory scheme is that there is no process in place for anyone to become aware that the application of a statute has changed because of a change in population data. Staff also said that at least in one case, the Governor's executive order was published in the Indiana Register in May, after the April 1 date that the population changes became effective under Indiana law.

Staff described other specific cases of political subdivisions "falling in" or "falling out" of statutes because of changes in population. The drafts that the Committee has reviewed have changed the statutes, where necessary, so that the political subdivisions for which a statute was designed are described and no others are described.

Representative Cheney asked whether it was within the Committee's charge to propose amending the Indiana Constitution so that when the General Assembly means "St. Joseph County" for example, the law can say "St. Joseph County" instead of having to resort to using population parameters. The Chair responded that Representative Cheney could work with staff if he wished to pursue the idea and present it to the Committee at the next meeting.

Staff discussed a problem with two statutes in IC 20 that described school corporations using county populations and the ADM of the school corporation. The two school corporations involved are for Gary and Lake Station. The problem with describing these two school corporations using ADM is that this number is updated every year and the two school corporations are no longer described by the ADM numbers in the statute. Staff suggested that a solution to this problem would be to describe the school corporations only by the population parameters for the municipality and eliminate the ADM reference entirely. The Chair instructed staff to prepare the next draft to include the two statutes with the changes suggested by staff.

Staff explained that SECTION 101 was a Noncode SECTION that related to the

11. See IC 1-1-3.5.

12. See IC 1-1-3.5-3.

amendment to IC 12-28-5-12 found in SECTION 34 of PD 3687. The General Assembly amended IC 12-28-5-12 during the 2001 Session, effective July 1, 2002. Because the 2000 Census data become effective for purposes of Indiana statutes on April 1, 2002, the Noncode SECTION is intended to update the parameters in IC 12-28-5-12, effective April 1, 2002 and then the amendment in SECTION 34 would become effective on July 1, 2002, the date when the 2001 amendments to that Code section become effective.

Finally, staff returned to SECTION 1 of PD 3687 and said that the amendments in that SECTION would change the existing rule that permits political subdivisions to move in and out of statutes due to a change in population data subsequent to a federal decennial census. Under the amendment to IC 1-1-3.5-3, the population data to describe a political subdivision would be fixed on the data reported from the decennial census whereas for all other purposes, the population data would be permitted to "float". Staff stated that the advantage to this approach would be the elimination of the kinds of problems discussed earlier in the meeting.

Representative Cheney asked whether this approach would pass constitutional scrutiny. Staff responded that the answer to the question is uncertain. Under the current process, the General Assembly would be faced with the exercise the Committee experienced this summer more frequently, although perhaps on a smaller scale, to maintain the policy intended when the General Assembly enacts statutes with parameters.

(7) Public Testimony. No member of the public wished to testify at the meeting.

(8) Select Next Meeting Date. The Chair set the next meeting date for Tuesday, December 18 at 1:30 p.m. at a location to be announced.

(9) Adjournment. The Chair adjourned the meeting at approximately 2:55 p.m.